

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA

v.

JUNAJAH SHAQUILLA SOMERVILLE,

Defendant.

CRIMINAL ACTION NO.
2:21cr17

TRANSCRIPT OF VIDEO TELECONFERENCE PROCEEDINGS
(Plea Hearing)

Norfolk, Virginia

March 16, 2021

BEFORE: THE HONORABLE RAYMOND A. JACKSON
United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Sherrie S. Capotosto
Assistant United States Attorney
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE

By: Wilfredo Bonilla, Jr.
Assistant Federal Public Defender
Counsel for the Defendant

1 (Proceedings commenced at 11:47 a.m.)

2 THE CLERK: United States of America vs. Junajah
3 Shaquilla Somerville, in Criminal Action 2:21cr17.

4 Ms. Capotosto, is the government ready to proceed?

5 MS. CAPOTOSTO: The United States is ready. Good
6 morning, Your Honor.

7 THE COURT: Good morning, Counsel.

8 THE CLERK: Mr. Bonilla, is the defendant ready to
9 proceed?

10 MR. BONILLA: The defense is ready. Good morning,
11 Your Honor.

12 THE COURT: Good morning, Counsel.

13 Good morning, Ms. Somerville.

14 THE DEFENDANT: Good morning, Your Honor.

15 THE COURT: This morning, Ms. Somerville, it will be
16 necessary that you take an oath to go forward.

17 THE CLERK: Ms. Somerville, if you could please
18 raise your right hand to be sworn.

19 (The defendant was duly sworn.)

20 THE COURT: All right. Ms. Somerville, you have
21 taken an oath to tell the truth this morning. In the event
22 you decide to lie to the Court or mislead the Court in some
23 way, you could subject yourself to other charges for perjury
24 or making a false statement.

25 Do you understand this?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: State your full name for the record,
3 please.

4 THE DEFENDANT: Junajah Shaquilla Somerville.

5 I can't hear you, Your Honor.

6 THE CLERK: Your Honor, you are muted.

7 THE COURT: How old are you, Ms. Somerville?

8 THE DEFENDANT: I'm 21 years old.

9 THE COURT: How much formal education have you had?

10 THE DEFENDANT: Up until one semester of college.

11 THE COURT: In your 21 years, have you been
12 hospitalized for any type of mental illness?

13 THE DEFENDANT: No, sir.

14 THE COURT: Drug addiction?

15 THE DEFENDANT: No, sir.

16 THE COURT: Alcoholism?

17 THE DEFENDANT: No, sir.

18 THE COURT: And have you taken any type of
19 medication this morning, prescribed or non-prescribed, that
20 affects your capacity to understand these proceedings?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you had sufficient time to confer
23 with Mr. Bonilla to prepare for this hearing?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you satisfied with the advice and

1 counsel you are receiving?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. We are here this morning --

4 THE CLERK: Your Honor, you're muted again.

5 THE COURT: I'm not touching this. I don't know why
6 it keeps going on and off. It's this kind of day, I suppose.

7 We're here this morning to take a plea in this case,
8 and we are proceeding pursuant to video teleconferencing this
9 morning.

10 Have you had an opportunity to confer with
11 Mr. Bonilla about a decision to go forward with video
12 teleconferencing this morning?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand that you are waiving
15 your right to appear in person before the Court to enter this
16 plea?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that your plea over
19 the video teleconferencing system will have the same effect
20 as if you had appeared before the Court in person?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Has anyone coerced you into going
23 forward using video teleconferencing?

24 THE DEFENDANT: No, sir.

25 THE COURT: Do you still wish to enter your plea

1 this morning using the video teleconferencing system?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Bonilla, would you -- I'll tell you
4 what. Let's start with Ms. Capotosto on behalf of the
5 government.

6 Will you state the reason you believe it appropriate
7 to go forward using video teleconferencing this morning. The
8 Court received a note regarding the reason, but I want you to
9 articulate it for the record.

10 MS. CAPOTOSTO: Yes, sir, Your Honor.

11 Given Chief Judge Davis's most recent order, which I
12 believe came out yesterday, and also in order to conserve
13 resources and promote the interest of justice and the health
14 and safety of both the parties and the court personnel, we
15 believe it is in the best interest, in light of the COVID-19
16 pandemic, and to get this pre-indictment resolution done in a
17 short time scale, that this should be done by video
18 teleconference.

19 I'll let Mr. Bonilla add or subtract anything he
20 feels necessary.

21 THE COURT: Mr. Bonilla?

22 MR. BONILLA: Your Honor, I concur with what
23 Ms. Capotosto has articulated to the Court. We agree with
24 that. That's accurate, Your Honor.

25 THE COURT: Okay. The Court understands the reason

1 provided, to cope with the fact that we're in the midst of a
2 pandemic, to maintain social distancing, and to diminish the
3 likelihood that anyone involved, certainly, would contract
4 COVID-19.

5 So, therefore, the Court finds, pursuant to the
6 CARES Act and the most recent order from the Chief Judge of
7 the United States District Court for the Eastern District of
8 Virginia, General Order Number 2021-03, that it's appropriate
9 to go forward using video teleconferencing this morning. So
10 that's what we will, in fact, do.

11 Now, I want to cover one other administrative
12 matter.

13 Pursuant to the Due Process Protection Act, the
14 United States is required to provide the defendant with all
15 evidence, make all disclosures, pursuant to *Brady vs.*
16 *Maryland*, because under *Brady vs. Maryland*, Ms. Somerville,
17 the suppression by the prosecution of evidence favorable to
18 an accused violates due process where the evidence might be
19 material to guilt or to punishment, irrespective of the good
20 faith or the bad faith of the prosecution, and failure to
21 abide by this requirement could result in charges being
22 dismissed or the prosecutor being subjected to disciplinary
23 action.

24 So the Court inquires this morning of the
25 United States whether the United States has complied with

1 *Brady vs. Maryland* in this case in all respects?

2 MS. CAPOTOSTO: Yes, Your Honor.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Bonilla, do you concur with
5 Ms. Capotosto?

6 MR. BONILLA: Yes, Your Honor, I do.

7 THE COURT: All right. Then the Court, finding that
8 you have complied with *Brady vs. Maryland*, will enter the Due
9 Process Protection Act order in this case.

10 It's the Court's further understanding,
11 Ms. Somerville, that you wish to enter a plea in this case.
12 Is that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Did you sign the Plea Agreement in this
15 case? The Court has a copy of a Plea Agreement in this case.
16 It has your signature, it appears, on Page 10 of the Plea
17 Agreement.

18 Do you recall signing Page 10?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Would you happen to have a copy there
21 with you?

22 THE DEFENDANT: No. Not -- no, I don't have a copy
23 of it with me.

24 THE COURT: Do you recall initialing each page of
25 the Plea Agreement?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Before you signed that Plea Agreement
3 and initialed the pages, did you read it?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did you discuss every single paragraph
6 with your counsel?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Did you understand what he discussed
9 with you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you believe the Plea Agreement
12 accurately reflects what you have agreed to in this case?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Bonilla, is this the best Plea
15 Agreement you could work out with the United States on behalf
16 of Ms. Somerville?

17 MR. BONILLA: Yes, it is, Your Honor.

18 THE COURT: Ms. Capotosto, I notice she is pleading
19 to five counts here. Is this the best offer you made to the
20 defendant in this case?

21 MS. CAPOTOSTO: It was, Your Honor. It was the most
22 advantageous to the defendant, yes, sir.

23 THE COURT: Just as a matter of curiosity, how many
24 potential counts was the defendant facing?

25 MS. CAPOTOSTO: Your Honor, there was an additional

1 robbery which we did not end up charging. So there was --
2 she's presently charged with two completed and one attempted.

3 THE COURT: Okay. Thank you very much.

4 If you'll turn over to the first paragraph of this
5 Plea Agreement -- well, I'm going to have to explain it to
6 you in detail since you're not now looking at it.

7 In the first paragraph, you agree to plead guilty to
8 a five-count Criminal Information. And Count One of the
9 Criminal Information charges you with conspiracy to interfere
10 with commerce by robbery. The maximum penalty for this
11 offense is a term of 20 years of imprisonment; a fine of
12 \$250,000; forfeiture of assets outlined in the Plea
13 Agreement; a special assessment, really, of \$100; and three
14 years of supervised release.

15 Counts Two and Four of the Criminal Information
16 charge you with interference with commerce by robbery. The
17 maximum penalty for this offense is 20 years of imprisonment;
18 a \$250,000 fine; forfeiture of any assets outlined in the
19 Plea Agreement; a special assessment, again, of \$100; and
20 three years' supervised release.

21 The third count of the Criminal Information charges
22 you with attempted interference with commerce by robbery.
23 The maximum penalty for this offense is, again, 20 years'
24 imprisonment; the same, a \$250,000 fine; forfeiture of assets
25 outlined in the Plea Agreement; special assessment, of

1 course, of \$100; and three years of supervised release.

2 And the final count charges you with brandishing a
3 firearm in furtherance of a crime of violence. Really, it's
4 aiding and abetting in brandishing a firearm in furtherance
5 of a crime of violence, to wit, interference with commerce by
6 robbery.

7 The maximum penalty for this offense is life, with a
8 mandatory minimum of seven years to be served consecutively
9 with any other term of imprisonment you've got in this case.
10 What that means is no matter what you get on Counts One
11 through Four, that seven years would have to be tacked on to
12 the back of whatever penalty you would get.

13 This offense carries a five-year period of
14 supervised release. Now, these periods of supervised release
15 I've referred to, Ms. Somerville, they would all run at the
16 same time.

17 Now, these are felony offenses. These are felony
18 offenses, Ms. Somerville. And when you're dealing with a
19 felony offense, there are certain rights that you have that
20 you may exercise under the Constitution, and I want to
21 apprise you of the fact that you have these rights.

22 Now, have you discussed this Criminal Information
23 that the United States wishes to file with Mr. Bonilla?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So, now, you understand the penalties,

1 and you understand what they wish to charge, but the Court
2 wants to tell you that you have a constitutional right to be
3 charged by an indictment of a grand jury, but you can waive
4 that right and consent to being tried or charged by an
5 information the U.S. Attorney wishes to file in this case.

6 So instead of an indictment, that's what is
7 happening here. The U.S. Attorney wishes to file this
8 five-count Criminal Information. Unless you waive
9 indictment, you may not be charged with these felony offenses
10 unless a grand jury finds, by a return of an indictment, that
11 there's probable cause to believe that these offenses were
12 committed and that you committed them.

13 Do you understand this?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Now, if you do not waive indictment, of
16 course, the government's next step would probably be to get
17 the grand jury to indict you.

18 Now, Ms. Somerville, a grand jury is composed of at
19 least 16 and not more than 23 jurors, grand jurors. At least
20 12 of those grand jurors must find there's probable cause to
21 believe that you committed the crimes that are being alleged
22 here before you could be indicted.

23 The grand jury might indict you; it may not indict
24 you. But what we do know is, if you waive your right to
25 indictment this morning, we will proceed based upon the

1 Criminal Information.

2 Now, I want to ask you have you discussed waiving
3 your right to indictment by a grand jury with your counsel?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand your right to be
6 indicted by a grand jury?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have any threats or promises, other than
9 what is in this Plea Agreement, been made to you to get you
10 to give up your right to proceed to a grand jury?

11 THE DEFENDANT: No, sir. No, sir.

12 THE COURT: Do you wish to waive your right to
13 indictment by a grand jury?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Bonilla, do you know of any reason
16 that Ms. Somerville should not waive her right to indictment
17 by a grand jury?

18 MR. BONILLA: No, Your Honor.

19 THE COURT: The Court has a document here entitled
20 "Waiver of Right to Indictment by Grand Jury." It appears to
21 be signed by you, Ms. Somerville.

22 Did you sign a Waiver of Indictment by Grand Jury?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And, Mr. Bonilla, did you likewise sign
25 this?

1 MR. BONILLA: Yes, Your Honor.

2 THE COURT: The Court finds that she has made a
3 knowing, voluntary, and intelligent waiver of her right to
4 indictment by a grand jury. So the Court will sign off on
5 this Waiver of Indictment by a Grand Jury, and it will be
6 filed in the record.

7 We now return to this Plea Agreement that the Court
8 previously discussed with you, that you've indicated that
9 you've signed, et cetera, and the Court asks you,
10 Ms. Somerville, have you ever been convicted of a felony
11 before?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And when was this?

14 THE DEFENDANT: During the time I was incarcerated
15 for this, I was convicted May 2019.

16 THE COURT: For what crime?

17 THE DEFENDANT: Fraud crimes in Chesapeake.

18 THE COURT: And after that conviction, did you ever
19 get your rights as a citizen restored?

20 THE DEFENDANT: No, sir.

21 THE COURT: So you understand that, by entering a
22 plea to felonies here, you lose your right to vote, possess a
23 firearm, and to exercise a lot of rights that citizens
24 exercise?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand you have a right to
2 plead not guilty and go to trial on these charges?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, the Plea Agreement lays out certain
5 rights you may enjoy at a trial, but the Court is going to go
6 forward, and the Court is going to explain certain rights
7 that you have also. But before the Court does that, the
8 Court has to make sure that the Court goes thoroughly over
9 this Plea Agreement with you. So let's go back to the Plea
10 Agreement.

11 Now, I explained to you what the maximum penalties
12 were on these charges, and I told you there were terms of
13 supervised release that you had on each charge, but what I
14 did not tell you was how supervised release works. Let me do
15 that.

16 While you have a supervised release period after
17 each charge, during your period of supervised release,
18 Ms. Somerville, you will be under the supervision and control
19 of the United States Probation Department, which works for
20 this Court. You will be given certain terms and conditions
21 to meet. If you meet those terms and conditions, at the end
22 of your period of supervised release, you will be terminated
23 from any further responsibility to this Court.

24 Now, if you violate the terms of supervised release,
25 you could be returned to court, and if you are found in

1 violation of supervised release, you could be returned to
2 prison for up to three years or up to five years, depending
3 upon what offense you commit.

4 Do you understand this?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions about it?

7 THE DEFENDANT: No, sir.

8 THE COURT: In this Plea Agreement, Ms. Somerville,
9 the Court notes that you exercised a couple of waivers. Let
10 me explain.

11 In paragraph 5, you indicated you understood your
12 right to appeal, but notwithstanding that you waived your
13 right to appeal your conviction and your sentence, as long as
14 it was within the statutory range that the Court previously
15 gave you, in exchange for certain concessions or benefits you
16 were getting in this Plea Agreement from the government, the
17 government did not waive its right to appeal the sentence in
18 this case. But you did.

19 Do you understand this?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you wish to waive your right to
22 appeal?

23 THE DEFENDANT: Yes, sir. Yes, sir.

24 THE COURT: Let me add this: Although you are
25 waiving your right to appeal, you still do have some

1 appellate or appeal rights left.

2 If you found that you had ineffective assistance of
3 counsel or the Court imposed a sentence that is beyond the
4 maximum provided by law or committed some other
5 constitutional violation, you could appeal that.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, you also waive your right under the
9 Privacy Act and the Freedom of Information Act to receive
10 information about your prosecution and investigation of your
11 case. You also waive your right to have a representative,
12 whether it be a lawyer or someone else, acquire information
13 about the prosecution and investigation involved in your
14 case.

15 Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you wish to waive your rights under
18 the Freedom of Information Act and the Privacy Act?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If you go over to Page 6 of the Plea
21 Agreement, there's a paragraph on restitution, and in this
22 paragraph, Ms. Somerville, you are required to make
23 restitution, mandatory restitution, to victims of your crime
24 for the losses that they sustained, and in the Plea
25 Agreement, there's an outline of a certain number of victims

1 in the case that you are required to make whole.

2 Now, if it's found that there are other victims
3 other than what is in this paragraph here, you will have to
4 make them whole also, and to make them whole, they're really
5 talking about paying money to compensate them for losses.

6 Do you understand this?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Any questions about it?

9 THE DEFENDANT: No, sir.

10 THE COURT: Paragraph 10, there's a forfeiture
11 agreement. In paragraph 10, you are simply saying that you
12 agree to give up/forfeit any interest in any robbery-related
13 and firearms-related asset that you own or over which you
14 exercise direct or indirect control.

15 In other words, if you've got something, a gold
16 Maserati, or whatever, from these robberies, you would have
17 to give it up. Do you understand this?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I don't think the facts show that
20 anybody got a gold Maserati. I just used that as an example
21 here.

22 Paragraphs 11 and 12 also talk about the forfeiture,
23 but again, they are really saying that you agree that you
24 will not challenge any effort by the government to forfeit
25 any assets from you. You will not seek any legal action to

1 stop any such forfeiture. You will have to identify any
2 assets that you might have.

3 Do you have any questions?

4 THE DEFENDANT: No, sir.

5 THE COURT: Those are some of the key paragraphs the
6 Court wants to highlight out of this Plea Agreement.

7 Do you have any questions you wish to ask,
8 Ms. Somerville?

9 THE DEFENDANT: No, sir.

10 THE COURT: Then the Plea Agreement will also be
11 filed in the record.

12 Now, I discussed with you the consequences of being
13 a felon, but I wanted to continue talking about the rights
14 you have as a defendant. You have a right to go to trial and
15 to plead not guilty to these offenses.

16 Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you go to trial, you have a right to
19 a speedy trial, a public trial, a jury trial, and to be
20 defended by counsel at trial.

21 You would start the trial with a clean record, in
22 other words, a presumption of innocence. So the law puts the
23 burden on the prosecution to prove your guilt beyond a
24 reasonable doubt. You don't have to prove anything.

25 You have the right to subpoena or have the Court

1 order the attendance of any witnesses you might believe will
2 assist you in putting on a defense. If you cannot afford the
3 cost of bringing witnesses to trial, the Court would have
4 that cost paid.

5 Do you understand this?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You have a further right to remain
8 silent if you go to trial. The prosecution could not use
9 your silence to persuade a judge or jury to convict you.

10 Do you understand this right?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And, Ms. Somerville, if you persist in
13 your plea and the Court accepts your plea, you can't exercise
14 all the rights we just talked about. You would still have
15 your counsel, but you cannot exercise the other rights the
16 Court has described to you.

17 Do you understand this?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If the Court accepts your plea, we will
20 return here for a sentencing in this case in July. At that
21 sentencing, the Court will have to determine what sentence is
22 sufficient but not greater than necessary for you.

23 To make this determination, the law provides several
24 factors the Court must balance. The Court must look at the
25 total nature of the offense you were involved in. The Court

1 must consider your personal history and background, the
2 Advisory Sentencing Guidelines. That is, the Advisory
3 Sentencing Guidelines simply make a recommendation to the
4 Court about what your penalty should be.

5 We will have to look at what restitution needs to be
6 made to the victims. The Court will also have to focus on
7 any personal needs you have as a defendant, whether they be
8 medical, psychiatric, or otherwise.

9 To obtain all the information necessary to sentence
10 you, the Court has a Presentence Report, a background report,
11 prepared on you, Ms. Somerville; and in that report, the
12 Court looks at, again, the role you played in this offense,
13 whether you've accepted personal responsibility for the
14 crimes you committed, or whether you have tried to obstruct
15 justice.

16 It's important, if you've accepted responsibility,
17 because it lowers your federal Advisory Sentencing
18 Guidelines. If you have obstructed justice, it would
19 increase your Advisory Guidelines.

20 You have an opportunity to object to the accuracy of
21 the Presentence Report, to object to the calculation of the
22 Advisory Sentencing Guidelines. The government has the same
23 opportunity.

24 At sentencing, you may take up your objections with
25 the Court. The Court will resolve your objections before you

1 are sentenced. You will have an opportunity to call
2 witnesses, put in character letters, if you wish to do so.
3 You may provide your own personal testimony, if you wish to
4 do so. If you do so under oath, you will be subject to
5 cross-examination; if you make an unsworn statement, you will
6 not. You may also remain silent, if you wish to do so.

7 I'm going to ask the parties to just hold up just
8 one second. Hold up just one second.

9 (There was a pause in the proceedings.)

10 THE COURT: Now, do you understand how the Court is
11 going to go about sentencing you in this case?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, Mr. Bonilla, have you discovered
14 any meritorious defense that Ms. Somerville might assert to
15 result in a judge or jury acquitting her?

16 MR. BONILLA: No, Your Honor.

17 THE COURT: Can you think of any reason she should
18 not plead guilty?

19 MR. BONILLA: No, Your Honor.

20 THE COURT: The Court told you a few minutes ago
21 that the United States had to prove your guilt beyond a
22 reasonable doubt. To prove your guilt beyond a reasonable
23 doubt, the United States has to prove what we call the
24 elements of the crime, the critical facts showing you
25 committed the crime. So let me kind of go over these facts

1 that they have to prove with you -- these critical elements.

2 On Count One, you are charged with a conspiracy to
3 interfere with commerce by robbery. A conspiracy is nothing
4 but an agreement between two or more people to violate the
5 law or do something the law prohibits. Here the conspiracy
6 was to rob the bank -- not to rob the bank. Excuse my
7 expression there. The conspiracy was to commit a robbery.

8 So the United States would have to prove, first of
9 all, that at least two or more persons entered into the
10 conspiracy to conduct a robbery; secondly, that you, with
11 knowledge of that conspiracy, voluntarily, intentionally
12 became a member of that conspiracy -- that is, that you
13 agreed in some way to facilitate that particular robbery;
14 they would also have to prove that at sometime during the
15 life of the conspiracy, with you knowing the purpose, at
16 least one of the people involved committed some offense to
17 facilitate that particular robbery.

18 So those are the three things they have to prove:
19 the existence of the conspiracy, your voluntary membership in
20 the conspiracy, and the performance of some act by someone to
21 facilitate the conspiracy.

22 Do you understand what I've said?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, you are also charged in Count Two
25 and Four with commission of the robbery, interference with

1 commerce by means of robbery.

2 To prove this offense, they would have to prove that
3 you or one of your co-conspirators obtained property from
4 another without their consent; secondly, that you or one of
5 your co-conspirators did so by wrongful use of actual force
6 or violence; thirdly, that you or one of your
7 co-conspirators, in conducting this robbery in the way they
8 did, delayed or affected interstate commerce; and, finally,
9 that you acted knowingly and intentionally.

10 If they can prove these critical facts,
11 Ms. Somerville, again, it's enough -- if they can prove these
12 critical facts beyond a reasonable doubt, it's enough for a
13 judge or jury to find you guilty.

14 Now, with respect to Count Three, the attempt to
15 interfere with commerce by robbery, once again, it would have
16 to be shown that you or one of your co-conspirators attempted
17 to obtain money from another without consent; that you did so
18 by wrongful use of force or threatened force; that you did so
19 in a way that would delay or interfere with commerce; and
20 that you took a substantial step toward completion of this
21 robbery; and, finally, that you acted knowingly and
22 intentionally.

23 Do you understand what I'm saying?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, let's go to the last charge.

1 The last charge, Count Five, you are charged with
2 aiding and abetting the brandishing of a firearm during a
3 crime of violence.

4 Now here -- Ms. Capotosto, the Court needs some
5 clarification on Count Five. I know the government always
6 does this, but I need a clarification.

7 You said "knowingly use, carry, and brandish."
8 Which one of them are you charging?

9 MS. CAPOTOSTO: Brandish.

10 THE COURT: Brandish a firearm.

11 So in order to convict you on this charge, the
12 United States would have to prove that a crime of violence --
13 here, the robbery -- was, in fact, committed by someone other
14 than you; secondly, that you actively participated in the
15 crime of violence as something you wished to bring about;
16 thirdly, that you associated yourself with this crime of
17 violence with advanced knowledge that someone else involved
18 in this robbery would brandish a firearm during and in
19 relation to this crime of violence; and, finally, that you
20 acted knowingly in attempting to bring this offense about.

21 Do you understand what the Court has just said?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: If you understand what the Court has
24 just said, how do you plead to Count One?

25 MS. CAPOTOSTO: Your Honor, may I interrupt? I

1 apologize very much, sir. But I believe, under
2 Rule 11(c)(1)(B), because we are asking the Court -- or we
3 put in the Plea Agreement in paragraph 4 that we are making a
4 recommendation on sentencing that is not binding on the
5 Court, I believe the Court needs to inform her, before taking
6 her plea, that she cannot withdraw her plea if the Court does
7 not accept that sentencing recommendation.

8 THE COURT: Okay. Let's back up. I did not cover
9 that with her. Thank you, Counsel.

10 All right. You've heard the Assistant United States
11 Attorney point out that, despite the recommendation that the
12 parties may make in this case, the Court is not bound to
13 follow the recommendations that they make in this Plea
14 Agreement.

15 Do you understand this?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And even if the Court does not agree
18 with the United States and your counsel, at that juncture you
19 will not be permitted to withdraw your plea.

20 Do you understand this?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Knowing this, do you wish to continue
23 with your plea?

24 THE DEFENDANT: Can I please talk to my counsel?

25 THE COURT: Yes.

1 THE DEFENDANT: Thank you.

2 THE COURT: Put them in a room, please.

3 (There was a pause in the proceedings.)

4 THE COURT: Okay. Ms. Somerville, we're back. Have
5 you had a chance to speak with your counsel?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. And you are prepared to go
8 forward?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. So you understood that last
11 question that the Court asked you, whether you understood
12 that the Court was not bound by all the recommendations that
13 your counsel may make, and if the Court does not agree with
14 everything they recommended, you still would not be able to
15 withdraw your plea?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. So now we'll go back to
18 where I was.

19 With respect to Count One, how do you plead?

20 THE DEFENDANT: Guilty.

21 THE COURT: Count Two?

22 THE DEFENDANT: Guilty.

23 THE COURT: Count Three?

24 THE DEFENDANT: Guilty.

25 THE COURT: Count Four?

1 THE DEFENDANT: Guilty.

2 THE COURT: Count Five?

3 THE DEFENDANT: Guilty.

4 THE COURT: Okay. The Court must have a Statement
5 of Facts to support your plea.

6 Did you sign off on a Statement of Facts in this
7 case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did you initial each page of the
10 Statement of Facts?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did you review the Statement of Facts
13 with Mr. Bonilla before you signed it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Is the Statement of Facts accurate as
16 laid out there?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that by virtue of the
19 fact that you affirm the accuracy of the Statement of Facts
20 today, you will not be able to successfully dispute the
21 accuracy of the facts when you come back in July?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Bonilla, are there amendments to be
24 made to the Statement of Facts?

25 MR. BONILLA: No, Your Honor.

1 THE COURT: Ms. Capotosto?

2 MS. CAPOTOSTO: No, Your Honor.

3 THE COURT: Well, the Court understands the
4 Statement of Facts. The Court does have a problem with the
5 Statement of Facts in this case, and the Court believes that
6 it is appropriate for the Court to withhold its finding of
7 guilt until it gets the Presentence Report to get the full
8 details, and so the Court will withhold its finding of guilt
9 in this case until the Presentence Report can be prepared and
10 presented to the Court.

11 Now, the Court will schedule your sentencing in this
12 case for July 22nd, 2021, at 11:30 a.m. in Norfolk. The
13 parties have signed off on the Sentencing Procedures Act, so
14 it will be followed.

15 One other thing, the Court will also file in the
16 record another document.

17 Now, did you sign off on Exhibit 1 in this case,
18 Ms. Somerville?

19 THE DEFENDANT: I think so, yes, sir.

20 THE COURT: Mr. Bonilla, did you have your client
21 sign Exhibit 1 in this case?

22 MR. BONILLA: Yes, Your Honor.

23 THE COURT: And the Court will file Exhibit 1, which
24 is also filed by at least one other person within this case,
25 under seal. So Exhibit 1 will be filed under seal in this

1 case also.

2 Now, Mr. Bonilla, are there any other matters before
3 the Court closes court?

4 MR. BONILLA: Nothing further. Thank you, Your
5 Honor.

6 THE COURT: Ms. Capotosto?

7 MS. CAPOTOSTO: No, Your Honor.

8 THE COURT: All right. The Court will be in recess
9 until further notice. Thank you very much.

10 (Off the record at 12:27 p.m.)

11

12

13 CERTIFICATION

14

15 I certify that the foregoing is a correct transcript
16 from the record of proceedings in the above-entitled matter.

17

18

19 _____/s/_____

20 Carol L. Naughton

21 March 26, 2021

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